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United States Senate

WASHINGTON, DC 20510-4903

October 20, 2009

COMMITTEES:

APPROPRIATIONS

JUDICIARY

SPECIAL COMMITTEE
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BANKING, HOUSING, AND
URBAN AFFAIRS

Ms. Joyce K. Frank
Acting Associate Administrator for Congressional and Intergovernmental Relations
Environmental Protection Agency
1200 Pennsylvania Avenue, NW, Room 3426 ARN
Washington, D.C. 20460

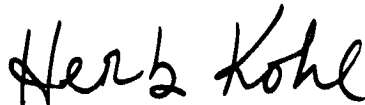
Dear Ms. Frank:

I am writing to share some concerns relayed to me by a Wisconsin constituent. Enclosed please find a copy of the correspondence I received.

Any assistance you could provide in responding to these concerns would be greatly appreciated. Please feel free to respond directly to my constituent.

Thank you for your attention to this matter.

Sincerely,



Herb Kohl
United States Senator

HK:nxb

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October 5, 2009

Senator Herb Kohl
330 Hart Senate Office Building
Washington, DC 20510

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SENATOR HERB KOHL
09 OCT 15 PM 5:11
WASHINGTON, DC

Dear Senator Kohl:

The U.S. Environmental Protection Agency is considering regulating fly ash under Subtitle C of the Resource Conservation and Recovery Act (RCRA). Any "hazardous waste" designation of fly ash would negatively impact on the concrete industry, the construction industry and the United States' infrastructure as a whole. This proposed regulation would go against previous determinations by the EPA, with the latest in 2000 when the EPA published its Regulatory Determination on Wastes from Fossil Fuels – Final Rule where the EPA concluded that fly ash as one of these materials "do not warrant regulation under subtitle C of RCRA and is retaining the hazardous waste exemption under RCRA section 3001(b) (3) (C)." Fly ash has proven to be a reliable recycled material that improves engineering properties of materials with positive environmental and economic impacts. As a manufacturer of precast concrete products here in Green Bay and Milwaukee I have grave concerns if this regulation goes forward because of the negative impact it will have on the concrete industry as well as construction of our roads, bridges, buildings and supporting infrastructure.

Fly ash is the non-combustible mineral portion of coal that remains after combustion in a power plant and results in molten particles that solidify in glass spheres comprised mostly of silica, alumina and calcium. Fly ash is then captured from the air leaving the combustion chamber of coal-fired power plants. Once captured the waste material of fly ash is recycled as an important additive that has been used in the construction industry for years. Fly ash alone has little cementitious value, but in the presence of moisture, it chemically reacts with calcium hydroxide at ordinary temperatures forming compounds that have cementitious properties.

The Romans used volcanic ash in building the Pantheon and Coliseum that are still standing 2,000 years after their construction and the structures durability is directly related to the Romans use of ash-based concrete. The U.S. agencies that support the use of fly ash include the U.S. Bureau of Reclamation, U.S. Army Corps of Engineers, U.S. Department of Energy and the U.S. Federal Highway Administration. Every state either allows or mandates the use of fly ash in their state-funded projects and is used in roads, bridges, dams, buildings, concrete masonry blocks, ready mix concrete, precast concrete structures and as a soil stabilizer. If fly ash is labeled as a hazardous material most of the recycling of fly ash into beneficial uses would end. State projects would either not be allowed to use it or would not want to have the stigma of having a hazardous waste contained in their projects. Fly ash transportation, storage and use would become heavily regulated for those industries, which have responsibly recycled this product for years.

The addition of fly ash and other supplemental cementitious materials (SCMs) to concrete provides benefits in the form of workability, increase of ultimate strength, durability and chemical resistance. The environmental benefits of using fly ash in concrete include: concrete structures that have a longer service life; reduction of the volume SCMs being disposed of in



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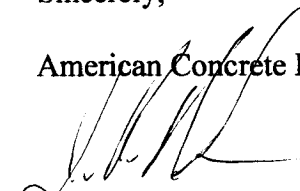
landfills; reduction of energy used to manufacture the concrete; reduction of water needed to manufacture concrete and reduction of virgin material used in the concrete. Without fly ash available the cost of concrete would increase due to the increase in energy to manufacture concrete and in increased use of virgin materials. Energy costs in general would increase as fly ash that was once a product that could be recycled would now have to be disposed of as a hazardous waste.

The use of the fly ash in concrete reduces the amount of cement that has to be used in concrete. By reducing the amount of cement that is needed in concrete, fly ash acts to reduce the amount of carbon dioxide (CO₂) released into the atmosphere. The average replacement of fly ash for cement in structural concrete is in the range of about 10%-30%. In some nonstructural uses of concrete the replacement of fly ash for cement can be as high as 70%. Currently more than 118 million tons of concrete are poured annually in the U.S., with fly ash being used to replace over 15 million tons of cement. Not only does this fly ash reduce CO₂ release, it also reduces the amount of cement that has to be imported. In 2003, over 15 million tons of cement had to be imported to make up for a native cement shortage at a cost of at least \$1 billion.

The use of fly ash in concrete can enhance the engineering properties of concrete that has made it a reliable construction material for years without sacrificing quality or affordability and has numerous positive environmental impacts. I am confident that with your help any coal ash disposal concerns can be addressed by the EPA without punishing industries that have responsibly used fly ash for years. More layers of regulation would only act to effectively smother the recycling of fly ash for beneficial use.

Sincerely,

American Concrete Pipe Co.

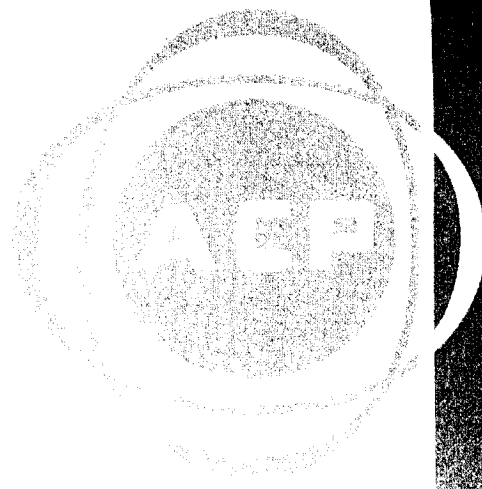

J.P. Nolan
Vice-President

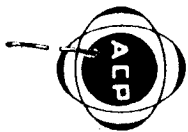
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www.americanconcretepipe.co



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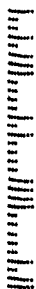


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